

**FILED**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA

NOV 27 2012

Clerk, U.S. District Court  
District Of Montana  
Missoula

MISSOULA DIVISION

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TYRONE EVERETT PAYNE, ) Cause No. CV 11-42-M-DWM-JCL  
                          )  
Petitioner,            )  
                          )  
vs.                    ) ORDER DENYING MOTION  
                          ) AND GRANTING EXTENSION  
WARDEN MARTIN FRINK; ) OF TIME  
ATTORNEY GENERAL OF )  
THE STATE OF MONTANA, )  
                          )  
Respondents.          )

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On November 26, 2012, Petitioner Tyrone Payne moved to sanction Respondents, apparently for transferring his custody without permission. 28 U.S.C. § 2243 does not require such permission. Fed. R. App. P. 23(a) does, but it is a rule of appellate procedure and has no bearing on this proceeding in the District Court. Payne's transfer does not affect this Court's jurisdiction over the case. The custody issue is simply resolved by naming the warden of the facility where Payne is currently held. Because Payne states he had not received the State's Answer as of November 23, he will be granted an extension of time to file his reply.

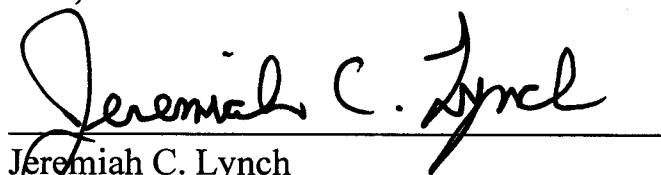
Based on the foregoing, the Court enters the following:

**ORDER**

1. The motion to sanction Respondent (doc. 49) is DENIED.
2. The caption of the case is AMENDED as set forth above.
3. Payne may file his Reply on or before **December 19, 2012**.

Payne must immediately notify the Court of any change in his mailing address by filing a "Notice of Change of Address." Failure to do so may result in dismissal of his case without notice to him.

DATED this 27th day of November, 2012.

  
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Jeremiah C. Lynch  
United States Magistrate Judge